

**REMARKS/ARGUMENTS**

Claims 36, 40-50, 54, 55, 59-67, 71 and 73-78 are pending. By this Amendment, claims 36, 54, 55, 59, 60, 74 and 76 are amended. Reconsideration in view of the above amendments and the following remarks are respectfully requested.

The PTOL-326, i.e., the Office Action Summary, indicates that the action is non-final in box 2b. Applicants agree with this assessment since the Office Action was prepared after the filing of a Request for Continued Examination (RCE), and the Examiner has applied a new grounds of rejection. Applicants therefore would like the Examiner to confirm that the status of the Office Action is non-final, especially since paragraph 49 of the Office Action apparently incorrectly indicates that the Office Action is made final. Moreover, Applicants respectfully submit that the amendments provided herewith are entitled to entry as a matter of right.

Claim 54 is objected to based on minor informalities. By this Amendment, Applicants confirm that the Examiner's understanding of the terms being construed as a extent are correct and have been amended as such herein.

Claims 54, 59, 60 and 77 were rejected under 35 U.S.C. §112, second paragraph. By this Amendment, claims 54, 59 and 60 have been amended to address the Examiner's concerns. In particular, claim 54 indicates that each of the first zone and the second zone has a transverse extent measured perpendicular to a longitudinal axis along which the longitudinal panel extends. While the Examiner notes that the longitudinal panel extends in several directions, what Applicant claims is transverse extents that are measured perpendicular to a longitudinal axis along which the longitudinal panel extends. Further, strict antecedent basis for the "longitudinal axis" has been provided throughout.

Claim 60 has been amended to specify that it is the second longitudinal crease that is substantially parallel the first longitudinal crease, while claim 59 specifies that the first zone extends parallel to the first longitudinal crease for a length substantially the same as the length of the first greater panel along said first longitudinal crease.

In regard to the rejection of claim 77, Applicants respectfully traverse as the claim requires a gap between each side wall and the stiffening element. As claim 73, from which claim 77 ultimately depends, sets forth a pair of side walls, claim 77 thereby effectively includes a gap between the first side wall and a first stiffening element, and a second gap between the second side wall and its respective stiffening element. With that framework, the gap is then defined as being substantially symmetrical about a horizontal plane extended from one said gap to another said gap, i.e., the gap and another said gap are effectively recited in the claim by reciting a gap between each side wall and the stiffening element.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 36, 40-45, 49, 71, 73-76 and 78 were rejected under 35 U.S.C. §102(b) over Rous (U.S. Patent No. 3,722,783). This rejection is respectfully traversed.

Claim 36 specifies that the stiffening element has a length the same as the longitudinal dimension of the shaped side wall. In other words, the word “substantially” has been removed. In paragraph 48 of the Office Action, the Examiner takes the position that Rous meets the language of substantially the same as the stiffening element has “a considerable longitudinal dimension in comparison to the shaped side wall”. Applicants respectfully traverse this position given the clear showing in the plan view of Figure 1 as the stiffening elements 22 do not have substantially the same dimension as the shaped side wall. In any event, the Applicants removed the term substantially such that the claim is not longer anticipated by Rous. Moreover, even in

the cross section shown in Figure 6, the stiffening element 22 cannot have the same longitudinal dimension as the shaped side wall, based on basic concepts of geometry.

In addition, Rous does not teach that the stiffening element comprises a substantially flat stiffening wall extending from said first edge to said second edge. It is noted that the first and second edges are defined earlier in the claim in reference to a shaped side wall being connected to the front wall along a first edge, and to a rear wall along a second edge. These edges are best seen in Figure 6 of Rous. However, the stiffening walls 22 do not extend from the first edge to the second edge. Rather, the stiffening walls 22 extend from one edge to a central or middle portion of the rear wall 12.

Similar remarks apply to independent claim 73, which even more specifically recites that the stiffening wall is spaced from the corresponding wall, and has a first end position at the first edge and a second end position at the second edge. The Examiner's explanation in paragraph 47 does not make up for this deficiency. Moreover, the Examiner in regard to claims 73-78, merely repeats what is set forth in the claim without providing any additional clarification or explanation, in contravention of 37 CFR 1.104(c)(2).

Finally, claim 36 now specifies that the rear wall and the stiffening walls define an empty parallelepiped space which corresponds to the shape of composition of cigarettes to be introduced inside the packet.

Turning again to claims 74-78, Rous does not teach this subject matter. With regard to claim 74, the stiffening wall does not have a length that is the same as longitudinal dimension of the side wall as set forth in claim 74.

In addition, Rous does not teach a lid hinged to the rear wall. Clearly, Rous teaches a lid hingedly connected to the front wall as clearly shown in Figure 1, especially as the Examiner considers panel 10 to constitute the front wall.

Claim 77 was discussed above in relation to the rejection under 35 U.S.C. §112, second paragraph. As shown in Rous (Figure 6), the gap between each side wall and the stiffening element is not substantially symmetrical about a horizontal plane extending from one said gap to another said gap.

In addition, claim 78, dependent on claim 76, defines that the first and second edges correspond to the lateral extremes of the empty space. Clearly, the first and second edges which is where the side wall is connected to the front wall and the rear wall, respectively, do not correspond to the lateral extremes of the empty space as set forth in claim 78.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 54, 55, 59-61 and 63 were rejected under 35 U.S.C. §102(b) over Frankenstein (U.S. Patent No. 2,603,405).

Claim 54 recites, *inter alia*, that the first zone of the longitudinal panels is superimposed in the packet to the panels to form the shaped side walls of the hinged-lid packet and that the extent of the second zone corresponds to the extent of the first and second transverse panel along a longitudinal axis of the blank.

Owing to this amendment, claim 54 now clearly specifies in a dimensional manner that the longitudinal crease separates the first zone from the second zone in the longitudinal panel and in the further longitudinal panel so that the shaped side walls of the packet may be formed.

Frankenstein does not disclose a first greater panel interposed between a first and second transverse panels which extend by a quantity corresponding to the extent of the second zone.

In paragraph 25 of the Office Action, the Examiner alleges that claim 54 is anticipated by Frankenstein because Frankenstein discloses: a first greater panel (33), a first zone (73, 74), a second zone (75), a strip (76), a first transverse panel (38) and a second transverse panel (47).

Applicants respectfully disagree to the interpretation of Frankenstein given by the Examiner.

Frankenstein discloses a book style carton in which the carton is divided in halves and extensions 68 and 69 of the blank are folded to form end walls. In particular, the panel 73 forms the outer end wall member, the panel 74 forms the top end wall member, the panel 75 forms the inner end wall member and the panel 76 constitutes in the set-up carton a spacer flap for the inner and outer end wall member (see Figure 5 and column 4, lines 10-42; “76” at line 19 is an evident error, it should have been as “73”). In addition, the panel (38) has a central hinge 30 formed by a score line which forms two separate panels each having the same width of the outer end wall member 73.

Therefore, it is not possible that Frankenstein discloses the claimed feature “a transverse panel which extends by a quantity corresponding to the extent of the second zone” because the transverse panel 38 is composed of two separate panels, each of which is associated to a different separate half of the carton and forms a lateral wall of the half carton.

Also, Frankenstein does not disclose a foldable blank in which a first greater panel, a first transverse panel and a second transverse panel are arranged to form in the packet respectively a rear wall, bottom wall and top wall, and each of said panels is superimposed in the packet on the first zones of said longitudinal panel and said further longitudinal panel to form shaped side walls. By contrast, extensions 68 and 69 of the blank are associated to a separate half of the

book style carton - they do not superimpose but rather each is secured to the bottom panel 33 forming a perimeter in the erected carton.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 46-48 were rejected under 35 U.S.C. §103(a) over Rous in view of Evans (U.S. Patent No. 2,028,276). This rejection is respectfully traversed at least because claims 46-48 depend from claim 36, either directly or indirectly, and are patentable by virtue of that dependency, in addition to the further features they recite.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-4017-119.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:                     /Paul T. Bowen/                      
Paul T. Bowen  
Reg. No. 38,009

PTB:sjg/jck  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100